



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,744	03/21/2001	Todd E. Chormenky	3607-001964	3424

7590 01/30/2004
David C. Hanson
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

EXAMINER

PATEL, JAYANTI K

ART UNIT	PAPER NUMBER
----------	--------------

2625

DATE MAILED: 01/30/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/813,744		CHORNENKY, TODD E.	
	Examiner		Art Unit	
	Jayanti K. Patel		2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 21 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 14-23 is/are rejected.
- 7) ☒ Claim(s) 7-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5,6</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings filed on July 23, 2001 are acceptable.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-5, 16-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al. (US 5,456,256) in view of North et al. (US 4,614,366).

Regarding claims 1 and 23, Schneider discloses a high resolution imaging system for personal identification comprising: a data transmitter in contact with a human nail and in communication with the validator controller (column 23, line 64 through column 24, line 13); the transmitter relying upon the physical properties of the nail and surrounding areas (column 23, lines 42-65); wherein the data transmitter transmits a data signal (figure 29, elements 370').

Schneider discloses fingerprint based identification system without specific details regarding properties of the human nail and a validator controller.

In the same field of endeavor, however, North discloses a nail identification system comprising a data transmitter in contact with a human nail (figure 1, element 20)

and a validator controller, wherein the validator receiver receives the data signal, the validator logic circuit processes the received data signal, and the validator status actuator performs an action based upon the received data signal (column 2, line 63 through column 3, line 16).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the properties of the human nail in a security validator as taught by North in the system of Schneider because North provides Schneider with a nail identification system which is attached directly to the body in a location which is both convenient and secure. Additionally, personal identification systems similar to the systems of North, Schneider and instant application are routinely used for security identification as further evidenced by the prior art of record in this application.

As to claim 2, Schneider discloses a system wherein the data signal is transmitted through the direct physical connection element (figure 29, element 374'). All other limitations of claim 2 are similarly analyzed as claim 1 above.

As to claims 4-5, Schneider discloses a data transmitter and validator that are powered by power source (column 13, lines 40-67; figure 20, element 240 and 254). Additionally, electrical power is essential for operation of any electrical device.

As to claim 16, Schneider discloses a security system comprising a recording device for recording to log specific events occurring within the security apparatus and associated devices (column 2, lines 1-18).

As to claims 17-19, Schneider discloses a protective layer and adhesive being applied to the validator and nail respectively (column 5, lines 40-60 and column 9, line 66 through column 10, line 40). The use of protective layer and adhesive is routine both in biometric security system as being evidenced by the prior art made of record in this application.

As to claim 20, Schneider discloses the security validator status actuator communicates with an enable/disable controller (figure 31, elements 390 and 392). North also discloses very similar limitations (column 3, lines 1-15).

As to claim 21, the steps claimed as method is nothing more than restating the function of the specific components of the apparatus as claimed above and therefore, it would have been obvious, considering the aforementioned rejection for the apparatus claims 1-2, 4-5, 16-21.

4. Claims 3, 6, 14-15, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al. (US 5,456,256) in view of North et al. (US 4,614,366) as applied to claims 1-2, 4-5 and 16-21 above and further in view of Philipp (US 5,682,032).

Regarding claims 3, 6, 14 and 15, while Schneider and North are silent about the capacitance plate secured to the human nail and an emitter, Philipp discloses a capacitively coupled identity verification and escort memory comprising a capacitance plate secured to the human nail and a circuit return conductor (column 5, line 1-25) and emitter configured to emit signal towards the data transmitter (column 3, lines 55-65).

Therefore, it would have been obvious to one having ordinary skill in the

art at the time the invention was made to use a capacitance plate and an emitter as taught by Philipp in the system of Schneider because Philipp provides Schneider with an identification verification system that not only reads security data but also senses the proximate presence of the individual by measuring a change in the capacitance value.

As to claim 22, Schneider discloses claimed electrical, magnetic, ultrasound and naturally or artificially created or modified properties (column 3, lines 31-65). North and Philips also disclose very similar limitations (North, column 3, line 1-35; Philipp, column 5, line 1-40).

Allowable Subject Matter

5. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 8-13 being dependent on claim 7 are objected for the same reason.

Other prior art cited

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Siver et al. (US 5,793,881) discloses a personal identification system using characteristics of the hand.

Beecham (US 5,876,926) discloses a system for verification of human medical data.

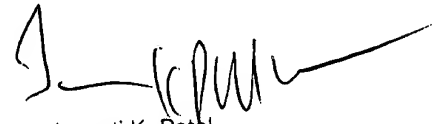
Minkin et al. (US 6,668,071) discloses a system for user identification using pulsating light source.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jayanti K. Patel whose telephone number is (703) 308-7728. The examiner can normally be reached on Monday-Friday (7:00-4:00), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (703) 308-5246. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Jayanti K. Patel
Primary Examiner

JKP

January 28, 2004